

REMARKS

CLAIMS

Claims 5-16 were previously presented. In the present amendment: Claim 7 has been cancelled and Claims 5, 8, 9, 12, 13, and 16 have been amended. Accordingly, after entry of the present amendment, Claims 5, 6, and 8-16 will be pending.

Of the above-referenced claims, Claims 5, 9, and 13 are independent. Once patentability of those claims is established, all claims depending therefrom are likewise allowable. Accordingly, the remarks set forth below focus primarily on those independent claims.

Even if the Examiner is not persuaded as to the patentability of those independent claims, Applicant respectfully submits that the further limitations of the dependent claims render at least those dependent claims allowable.

Paragraph 2 of the Office Action

CLAIM REJECTIONS - 35 U.S.C. §112

Claims 5-16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, in Claim 5, line 7, the Examiner alleges “an existing pole segment” is indefinite, and in Claim 9, line 8; and Claim 13, the Examiner alleges “an extension pole assembly” renders the claim indefinite since it is not clear how an invention can encompass one of itself, in the context of the claims (see preamble).

Applicant has amended Claims 5, 9, and 13. Any indefiniteness that may have existed has now been corrected.

CLAIM REJECTIONS 35 U.S.C. §102/103

Claim 5 was rejected under 35 U.S.C. §102 (b) as being anticipated by Eichhorn (5,779,386) or Schroeder (3,091,790).

Claims 6-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Eichhorn or Schroeder, in view of Ross (5,029,847).

Claim 5 has been amended such that each substantially identical pole segment includes an end cap. Accordingly, the remarks set forth below in regard to independent Claims 9 and 13 apply equally to independent Claim 5.

For a detailed explanation of the differences between the Schroeder apparatus and Applicant's extension pole, Applicant respectfully encourages the Examiner to review at least Applicant's Final Office Action response and subsequently filed Appeal Brief. However, in an effort to further prosecution of the application, Applicant highlights those differences below.

Schroeder does not disclose a second end portion (smaller diameter) of a first pole segment having a protective end cap inserted therein being received into a first end portion (larger diameter) of a second pole (Claim 9), or a plurality of pole segments wherein the second end portion (smaller diameter) of one pole segment having a protective end cap inserted therein is received into a first end portion (larger diameter) of a different pole segment (Claim 13) so that the extension pole assembly is formed having the cap of the second pole segment formed without removal of the cap of any other subsequently added pole segment (Claims 5, 9, and 13).

This configuration allows a pole segment to be added to the existing pole assembly without removal of the cap from the smaller end portion of the existing pole segment as this smaller end portion is inserted into or received into the larger end portion of a tube segment being added to the existing pole assembly.

Likewise, shortening of the pole assembly by removal of a pole segment exposes the smaller end portion having a protective cap already inserted therein.

Accordingly, Applicant's invention provides for the formation of an extension pole assembly (extending by the addition of a pole segment, or reducing by the removal of a pole segment) having a protective end cap formed therein without the addition or removal of the protective end cap from any other pole segment.

Applicant's invention is a significant departure from Schroeder. As each successive pole segment is joined together an extension pole assembly having a protective end is formed without removal of the protective end cap of any other pole segment. Consequently, the extension pole assembly will always have a protective end cap, removal of the end cap from one pole segment and the insertion of the same end cap into another pole segment is negated, and the possibility of losing end caps or damage to the surrounding environment by an unprotected end of a pole segment is negligible.

Ross adds nothing to Schroeder except an end cap to the end of the assembled tool. Like nearly all other devices with two open ends, Ross adds an end cap to each end. Ross fails to provide a cap within each end of the intermediate interlocking exercise members suitable for use as an end cap, if needed, as disclosed by Applicant. As disclosed by Ross, "A cap, generally designated by numeral 34 is provided to fit in the end exercise members 20 and 26 in the aperture 28 at each end 30 of the end exercise members (column 2, lines 42-45).

The end exercise member 20 and intermediate members 22, 24 of Ross are each formed with a plurality of internal threads 40, while the opposite ends of the intermediate members 22, 24 and the end exercise member 26 of the foldable stick 10 are each formed with a coupling member 44. As such, end caps exist only at the ends of Ross's foldable stick, not within any intermediate

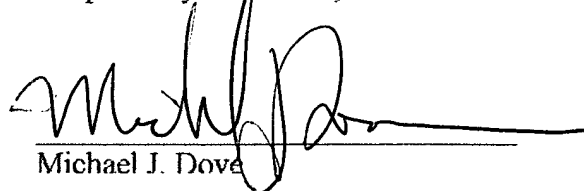
member. Accordingly, Ross offers no suggestion, teaching, or motivation to position end caps anywhere other than at the end of the Schroeder tool.

The Eichhorn device fairs no better than Schroeder with the addition of the Ross end caps. As indicated above, Ross simply does not suggest, teach, or motivate to position end caps anywhere other than at the end of a device. Applicant is simply baffled at how the addition of end caps to a swing, playpen, stroller or other juvenile products, as disclosed by Eichhorn, results in an extension pole assembly being formed with the end cap of a second pole segment formed without removal of an end cap from an intermediate section of the assembly. The more logical or obvious approach would be to add the spring biased clip assembly of Eichhorn to the intermediate exercise members of Ross. However, once again, the device would fail to provide a cap within each end of the intermediate interlocking exercise members suitable for use as an end cap, if needed, as disclosed by Applicant.

In view of the amendments and remarks set forth above, it is thought the application is now in condition for allowance, notice whereof is respectfully requested of the Examiner.

If the Examiner has any questions regarding the foregoing, or if the Examiner would like to discuss any minor defects regarding this application, the Examiner is invited to contact the Applicant at (949) 922-8362.

Respectfully submitted,



Michael J. Dove

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